

**STATE HUMAN RIGHTS COMMITTEE
MEETING MINUTES**

DMHMRSAS, Central Office
Commissioner's Board Room
1220 Bank Street
Richmond, Virginia, 23219
Friday, January 24, 2003

ADVOCATES' FORUM

8:00 a.m.

COMMITTEE MEMBERS PRESENT

Peter McIntosh, Chair
Jim Briggs, Vice-Chair
Angela Brosnan
Carol Gittman
Michael Marsh
Carmen Thompson
Davey Zellmer

STAFF PRESENT

Margaret Walsh, State Human Rights Director
Kli Kinzie, Executive Secretary
Mary W. Towle, Regional Human Rights Advocate, Region II
Nancy C. Neese, Regional Human Rights Advocate, Region III
James O. Bowser, Jr., Regional Human Rights Advocate, Region IV
Reginald T. Daye, Regional Human Rights Advocate, Region V
Jennifer Bailey, Human Rights Advocate, Region IV & V Core E
Ann Petrie, Facility Human Rights Advocate, NVMHI

OTHERS:

Dana M. Johnson, Assistant Attorney General

CLIENT SWAYING:

This issue was tabled until a future date.

State Human Rights Director's Report:

Margaret Walsh, State Human Rights Director, reported on the following items:

Positions lost from budget cutbacks: Ms. Walsh conducted a functional analysis to evaluate the necessity of each position in the Office of Human Rights (OHR). It was projected that the DMHMRSAS could generate money by setting up two (2) CORE units under Title IV E for CORE Programs. The OHR was able to reclassify some positions for this purpose. Staff identified will use Title IV E time sheets to specifically tract CORE activity.

Facilities will work with partners in their regions to develop programs in the community. Funds will move from the facilities to community programs as consumers are moved out of the state institutions.

The potential release of a sexual predator has stimulated talk of changing the laws of release of sexual predators. Bills are still being reviewed in the General Assembly but they are not doing well.

There is a bill on the table regarding minor offenders found Not Guilty by Reason of Insanity (NGRI). This policy would primarily affect 14 to 17 year-olds who are not tried as adults. At present a minor cannot claim NGRI status. There are, however, minors who are receiving treatment as a result of committing crimes. If the bill passes, it would put a policy in place for what is already happening in practice.

Dana M. Johnson, Assistant Attorney General stated that the AG's office is looking to change Judicial Authorization for Treatment. At present, it is possible to get court orders for giving treatment and for the withholding of treatment. It is hoped that the system can do away with being able to withhold treatment.

Margaret Walsh summarized the Health Insurance Portability and Accountability Act (HIPAA), which is effective April 20, 2003. HIPAA includes the technology of maintaining information systems and the policies of maintaining the privacy of health and mental health information. Much of HIPAA is similar to human rights policy. It is likely that there will be a high incidence of HIPAA complaints that overlap with human rights issues.

Reginald T. Daye, Regional Human Rights Advocate, Region V, introduced Jennifer Bailey, Human Rights Advocate, Region IV & V Core E. Mr. Daye and Ms. Bailey summarized the CORE activities in Region V. Ms. Bailey will provide advocacy services to Region V two days and week and to Region IV three days a week. Virginia

Goodell and Barry Lee, Patient Advocates, Eastern State Hospital, will provide back-up to Ms. Bailey. Christopher Ruble, Facility Advocate for WSH and CORE Advocate, will provide CORE services to Regions I & II. James O. Bowser, Jr., Regional Human Rights Advocate, Region IV, stated that all of his staff in Region IV will serve as back-ups for CORE services.

Margaret Walsh reported that the Western State Hospital (WSH) LHRC agreed to accept a temporary affiliation from UVA hospital. In so doing they have doubled their responsibility. The LHRC meets twice a month: once for WSH and once for UVA. The WSH LHRC also agreed to step in to provide LHRC services to NVMHI if necessary. Peter McIntosh, SHRC Chair, will draft a letter of thanks to Christine Delzingaro, WSH LHRC Chair.

Mary W. Towle, Regional Human Rights Advocate, Region II, and Ann Petrie, Facility Human Rights Advocate, NVMHI, reported that the Northern Virginia Mental Health Institute (NVMHI) LHRC has two remaining members - all others have resigned. Staff of the OHR have spoken to Lynn Delacy, Acting Facility Director for NVMHI about the situation. The Fairfax-Falls Church LHRC is willing to provide temporary LHRC services to the institute, but they have not had a meeting with a quorum to vote on accepting the responsibility. It is proposed that the SHRC act as the human rights committee for NVMHI until it has a fully functioning committee.

Reginald Daye and Jennifer Bailey reported on a residential program in Hampton that was using Room Time, which entails closed doors. It was thought that Room Time meant doors would generally be closed for such things as attending to hygiene, doing homework, etc. When investigated, it was found that Room Time meant the door HAD to be closed. Children could not come out or they would suffer some consequence (e.g. negative points). Thus Room Time resembles Time Out or Seclusion. The program was told that they need to maintain appropriate staff levels so it is not necessary to shut the children away for an hour in order for staff to have a break from supervising. The program agreed to modify Room Time to Personal Time and to allow the children to go into the day room if desired.

The proposed 2003 SHRC Meeting Schedule was accepted.

REGULAR MEETING

10:15 a.m.

COMMITTEE MEMBERS PRESENT:

Peter McIntosh, Chair
Jim Briggs, Vice-Chair
Angela Brosnan
Carol Gittman
Michael Marsh

Carmen Thompson
Davey Zellmer

STAFF PRESENT:

Margaret Walsh, State Human Rights Director
Kli Kinzie, Executive Secretary
Mary W. Towle, Regional Human Rights Advocate, Region II
Nancy C. Neese, Regional Human Rights Advocate, Region III
James O. Bowser, Jr., Regional Human Rights Advocate, Region IV
Reginald T. Daye, Regional Human Rights Advocate, Region V
Jennifer Bailey, Human Rights Advocate, Region IV & V Core E
Mike Curseen, Patient Advocate, Central State Hospital
Beverly Garnes, Patient Advocate, Southside Virginia Training Center
Ann Petrie, Facility Human Rights Advocate, Northern Va Mental Health Institute
Mr. Stewart Prost, Human Rights Advocate Senior (polycom)

OTHERS PRESENT:

Dana M. Johnson, Assistant Attorney General
Harvey Barker, PhD, Director of service unit, NRVCS (polycom)
Dennis Cropper, Director of service unit, NRVCS (polycom)
Kat McClinton, Director, New Life Recovery (polycom)
Maryanne Chamberlain, Executive Director, Bethany Hall (polycom)
Fred Mitchell, Colonial Community Services Board (polycom)
Larry Latham, Facility Director, Central State Hospital
V.R., Complainant, Central State Hoapital
Kia Bentley, Chair, Central State Hospital LHRC

CALL TO ORDER:

The January 24, 2003, meeting of the State Human Rights Committee was called to order by Chairman Peter McIntosh. Mr. McIntosh lead the members in introducing themselves. Advocates and staff of the Office of Human Rights introduced themselves.

MINUTES:

The minutes of the October 18, 2002 State Human Rights Committee meeting were unanimously approved.

VARIANCES:

Nan Neese, Regional Advocate, gave a general overview of the subjects of the substance abuse services Variances and reviewed with the Committee the report submitted by the Office of Substance Abuse Services at the September 6, 2002 meeting. The applications for Variance involve the Rules and Regulations 12 VAC 35-

115-50, Dignity C7 [access to the telephone] and the corresponding paragraph E4(c) [restriction of access] and Dignity C8 [visitation] and the corresponding paragraph E5 [restriction on visitation].

New Life Recovery of New River Valley Community Services (NRVCS):

The review was held via polycom to the New River Valley Community Services board office in Blacksburg, Virginia. Those present at the Blacksburg site included Harvey Barker, Ph.D., and Dennis Cropper, Directors of service units within NRVCS, and Kat McClinton, Director of New Life Recovery. Ms. McClinton provided an overview of her program and responded to the members questions. The SHRC conducted a review of the materials submitted and entertained discussion including but not limited to the efficacy of substance abuse services and treatment.

The motion was made and passed by a vote of 5:2 to grant for a period not to exceed one year the amended Variance relative to restricting access to the telephone in accordance with Section 12 VAC 35-115-50, E4(c), and Section 12 VAC 35-115-50, C8, relative to conditional access to visitors, and E5, to substitute the program director and clinical staff where the Regulation requires a physician or psychologist with the stipulation that the designated clinical staff hold a master degree and certification as a CSAC.

Bethany Hall for a New Beginning:

The review was held via polycom to the New River Valley Community Services board office in Blacksburg, Virginia. Maryanne Chamberlain, Executive Director of Bethany Hall, was present at the Blacksburg site. Ms. Chamberlain provided an overview of her program and responded to the members questions. The SHRC conducted a review of the materials submitted.

The motion was made and passed by a vote of 5:2 to grant for a period not to exceed one year the amended Variance relative to restricting access to the telephone in accordance with Section 12 VAC 35-115-50, E4(c), and Section 12 VAC 35-115-50, C8, relative to restricting access to visitors during the first two weeks of admission, and E5 to substitute the program director and clinical staff where the Regulation requires a physician or psychologist with the stipulation that the designated clinical staff hold a master degree and certification as a CSAC.

Highlands Community Services:

Nan Neese, Regional Advocate, presented to the State Human Rights Committee a letter dated December 18, 2002 from Hunter P. Widener, ACSW, Executive Director of Highlands Community Services on the status of the Variance to 12

VAC 35-115-110, B10, Use of Seclusion. The notified the State Committee that the use of seclusion had been discontinued and that Mr. Widener would not seek a second Variance to the use of seclusion within the Interchange, a day treatment and education program for youth in the Highlands service area. The Committee accepted the letter of notification.

REVIEW:

The SHRC viewed a video tape on the use of Electro Convulsive Therapy.

APPEALS:

Colonial Community Services Board: CM

This case came before the State Human Rights Committee on appeal of a decision of the Health Planning V Local Human Rights Committee. Mr. Stewart Prost, Human Rights Advocate Senior, represented C.M., and Mr. Fred Mitchell represented Colonial Community Services Board. Mr. Prost and Mr. Mitchell participated in the hearing via teleconferencing from Eastern State Hospital. C.M. was unable to attend the hearing, however, he had instructed Mr. Prost to proceed on his behalf. SHRC members present were Peter McIntosh, Jim Briggs, Carol Gittman, Dr. Michael Marsh, Carmen Thompson, Davey Zellmer and Dr. Angela Brosnan.

At the request of the client, this hearing was closed.

The motion was made and passed that the State Human Rights Committee go into closed session pursuant to Virginia Code § 2.1-344, for the purpose of discussing the appeal of C.M. This review necessarily involved discussion and consideration of records and information excluded from the Freedom of Information Act.

Upon reconvening in public session, the State Human Rights Committee unanimously certified that to the best of each State Human Rights Committee member's knowledge, only public business matters lawfully exempt from statutory open meeting requirements, and only public business matters identified in the motion to convene the closed session were discussed in closed session.

The motion was made and passed by a vote of 6:1 not to uphold the LHRC's decision that there was no violation of §12 VAC 35-115-50(B)5. The SHRC finds a violation of the requirement that a program give general information about services in a manner that the individual understands.

The motion was made and unanimously passed to uphold the LHRC's decision that the SHRC upholds the decision of the LHRC that the CSB did not

violate § 12 VAC 35-115-50(D)1 regarding the general treatment of consumers of services.

The motion was made and unanimously passed to uphold the LHRC's decision that the SHRC finds no violation of §VAC 35-115-170 and 180 regarding the process and timeframes for human rights complaints.

Central State Hospital: V.R.

This case came before the State Human Rights Committee on appeal of a decision of the Central State Hospital Local Human Rights. Larry Latham, Director of CSH, brought the appeal forward. Members present were Peter McIntosh, Jim Briggs, Carol Gittman, Dr. Michael Marsh, Carmen Thompson, Davey Zellmer, and Dr. Angela Brosnan.

CSH disagrees with the findings of the CSH LHRC that CSH violated V.R.'s rights in the following area:

12 VAC 35-115-70, (A) 1-4 and 9 Participation in Decision Making, of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services*.

At the request of the client, this hearing was closed.

The motion was made and passed that the State Human Rights Committee go into closed session pursuant to Virginia Code § 2.1-344, for the purpose of discussing the appeal of V.R. This review necessarily involved discussion and consideration of records and information excluded from the Freedom of Information Act.

Upon reconvening in public session, the State Human Rights Committee unanimously certified that to the best of each State Human Rights Committee member's knowledge, only public business matters lawfully exempt from statutory open meeting requirements, and only public business matters identified in the motion to convene the closed session were discussed in closed session.

The motion was made and passed by a vote of 5:2 that the SHRC does not uphold the LHRC's decision that V.R.'s right to participate meaningfully in decision-making about her treatment as referenced in 12 VAC 35-115-70, A (1-4) was violated.

The motion was made and passed by a vote of 6:1 that the SHRC does not uphold the LHRC's decision that V.R.'s right to exempt certain decisions from the authority of her designated authorized representative as referenced in 12 VAC-35-

115-70, A (9), was violated.

LHRC MEMBERSHIP:

The motion was made and passed that the State Human Rights Committee go into closed session pursuant to Virginia Code §2.1-344 A (15) for the purpose of reviewing Local Human Rights Committee nominations.

Upon reconvening in open session, the Committee unanimously passed a motion to appoint the following applicants to their respective Local Human Rights Committees.

Health Planning Region V

Appointment:

Daphne L. Eaton

Universal Family

Appointment:

Lessie Leary

District 19

Appointments:

Barbara S. Rogers

Lachania Jefferson

Joseph P. Dickens

NOVA Regional LHRC

Reappointment:

Judi Booker

Catawba Hospital

Appointments:

Courtney Hewitt

Paul Yeaman

The Motion was made and unanimously passed to permit a temporary affiliation of the Northern Virginia Mental Health Institute with the SHRC pending the facility receiving an approved affiliations with the Fairfax-Falls Church CSB LHRC on Feb 4. The SHRC appointed a sub-committee of three members to provide services to NVMHI if needed. The sub-committee consists of Peter McIntosh, Jim Briggs and Davey Zellmer.

The motion was made and unanimously passed to rescind the appointments of the two members remaining on the NVMHI LHRC. A letter is to be sent to each of these individuals informing them that this action was taken because NVMHI is now affiliated with the SHRC and soon will be affiliated with Fairfax-Falls Church CSB. The letter will thank them for their services and encourage them to submit an application for another LHRC or the new regional

psychiatric hospital LHRC.

The motion was made and unanimously passed to appoint a sub-committee of Peter McIntosh and Carol Gittman to identify prospective new members to replace Peter McIntosh and Carol Gittman when their terms expire on June 30, 2003.

The motion was made and passed to appoint a Nominating Sub-Committee of Jim Briggs and Carmen Thompson to make recommendations for new officers.

The SHRC received a copy of the ARC of Virginia's Position Paper on mental retardation and the death penalty.

Having no further business to discuss, the motion was made and passed to adjourn the meeting.

Respectfully submitted,

**Peter McIntosh, Chair
State Human Rights Committee**